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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,450	07/03/2003	Klaus Gisbert Schmitt	0275M-000752	6512

27572 7590 03/24/2005

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EXAMINER

SHAW, CLIFFORD C

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,450

Applicant(s)

SCHMITT ET AL.

Examiner

Clifford C Shaw

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005 and 14 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34,36,38-44 and 46-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34,36,38 and 40-42 is/are allowed.
- 6) ☒ Claim(s) 39, 43, 44, and 46-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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Detailed Action

1.) The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2.) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3.) Claim 39 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 39 depends from canceled claim 35, making it unclear what the scope of claim 39 is.

4.) Claims 43, 44, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Shoup et al. (4,074,103). Figures 1, 2, 7, and 8 and the discussion thereof disclose an arrangement for arc welding fastener 24 to coated structure 26 with the claimed features including positioning fastener 24 in contact with coating 28 and rotating fastener 24 via elements 132 and 124 to produce electrical contact between 24 and 26.

5.) Claims 43 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by either one of Hughs, Jr. (3,825,717) or Wenrich et al. (3,696,227). Either one of Hughs, Jr. (3,825,717) or Wenrich et al. (3,696,227) disclose translational movement of a fastener prior to

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arc welding to break through a workpiece covering as claimed (see the abstract in Hughs, Jr. (3,825,717) and see the discussion at column 2 in Wenrich et al. (3,696,227)).

6.) Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Shoup et al. (4,074,103), Hughs, Jr. (3,825,717), or Wenrich et al. (3,696,227) as applied to the claims above, and further in view of Sneddon, Jr. (2,782,451). The only aspect of the claim to which the rejection above does not apply is the provision for using a vacuum or air pressure to clear away debris. This difference does not patentably distinguish over the prior art. At the time applicant's invention was made, it would have been obvious to have provided the systems of any one of Shoup et al. (4,074,103), Hughs, Jr. (3,825,717), or Wenrich et al. (3,696,227) with a vacuum cleaning system, the motivation being the teachings of Sneddon, Jr. (2,782,451) that it is advantageous to vacuum prior to welding to clear debris from the work area (see element 19 in figures 1 and 2 in Sneddon, Jr. (2,782,451) and the discussion thereof).

7.) Claims 46 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Shoup et al. (4,074,103), Hughs, Jr. (3,825,717), or Wenrich et al. (3,696,227) as applied to the claims above, and further in view of Krengel et al. (6,762,392). The only aspects of the claims to which the rejections above do not apply are the provisions for cleaning with an arc, alternating polarity, and providing a magnetic field. These differences do not patentably distinguish over the prior art. At the time applicant's invention was made, it would have been obvious to have provided the systems of any one of Shoup et al. (4,074,103), Hughs, Jr. (3,825,717), or Wenrich et al. (3,696,227) with the aforementioned features, the motivation

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being the teachings of Kregel et al. (6,762,392) that such are advantageous for welding a fastener (see the cleaning arc discussed in the abstract, the polarity shift as shown in figure 3 and the magnetic field associated with element 3 in Kregel et al. (6,762,392)).

8.) Claims 34, 36, 38, and 40-42 are allowable over the prior art of record. None of the prior art of record teaches or suggests the holder coupled to a drive lever as set forth in independent claim 34 or the holder coupled to an eccentric drive as set forth in independent claim 38. The other claims are allowable at least because they depend from claims 34 and 38.

9.) Claim 39 would be given favorable consideration if it were recast to depend from claim 34.

10.) Applicant's arguments filed in his "Remarks" filed on 12/14/2004 have been fully considered but they are not persuasive. Claims 34, 36, 38, and 40-41 are considered allowable, as discussed above. The other claims are rejected for the reasons set forth above.

11.) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Clifford C Shaw at telephone number 571-272-1182. The examiner can normally be reached on Monday through Friday of the first week of the pay period and on Tuesday through Friday of the second week of the pay period.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas G. Dunn, can be reached at 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Clifford C Shaw
Primary Examiner
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March 21, 2005